Summary of Testimony of Jess Stonestreet Jackson
Commerce, Trade and Consumer Protection Subcommittee
of the Committee on Energy and Commerce
June 19, 2008

Thank you for the opportunity to testify today. I welcome Congressional help and there are two areas that require immediate action: First, a broken business model must be fixed and second, drug use and other safety standards need to be addressed.

These problems have common root causes: The lack of a national and responsible horse owners' organization; the lack of transparency in industry practices; the lack of uniform standards; and, most importantly, the lack of accountability and enforceability. All of which can be corrected by an effective horse owners' organization. It is clear to me that most of the industry's present ills stem from the fact that we are a national, or international, sport, that has no competent central regulating body or federal authority mandating uniformity in the United States. While one or more of the present organizations may, with the best of intentions, "study" various issues, few have the authority and none enforce uniform national standards. Some of these issues have been studied, as with the banning of performance altering drugs, for decades without action. As this Committee properly senses, we need less STUDYING and more DOING.

While I do not favor more federal regulation or bureaucracy, I do think that a carefully crafted charter, or other vehicle, for a federal horse racing association (representing horse owners) is urgently needed to ensure better treatment for the horses and enhance the revenues for both the tracks and the horse and improve the integrity and safety of the sport.

Testimony of Jess Stonestreet Jackson
Commerce, Trade and Consumer Protection Subcommittee
of the Committee on Energy and Commerce
June 19, 2008

Chairwoman Schakowsky, Ranking Member Whitfield and Members of the Subcommittee, good morning. My name is Jess Jackson. I am here today because of my lifelong passion for the sport of thoroughbred racing and breeding and my role as a relative newcomer to thoroughbred ownership. My life experiences include many vocations. I was a law enforcement officer, a practicing attorney and a member for the Center for Democracy. I am also the founder of Kendall-Jackson Winery. At heart, I am a farmer.

I appreciate the opportunity to address you today on matters of importance concerning the sport and business of thoroughbred racing. While we are all deeply saddened that the tragic injuries to horses such as Barbaro and Eight Belles may be the impetus for this hearing, I believe most owners of horses nationwide, including a large silent majority connected to thoroughbreds, are very encouraged that Congress is holding this hearing today. We need Congress to take an active interest in assuring the integrity, safety, and economic viability of this magnificent sport.

My passion for horses and the sport of horse racing dates back more than seven decades. As a boy growing up in California, I had the privilege to watch Seabiscuit – one of the most popular thoroughbreds of all time – run in a race not too far from my home. That memory has stayed with me all these years, and helped forge a strong affection for horses and a deep appreciation of their beauty, power, elegance and athleticism.

I am a life-long fan of thoroughbred racing. Through hard work and perhaps a fair dose of good luck, I have found myself in a position to pursue my passion for thoroughbred horses as more than just a fan. I am 78 years old. I had hopes to ease into my retirement but instead, a few years ago, my family and I returned to raising and racing horses which led to the establishment of Stonestreet Stables. I wanted to join and participate in a great agriculture industry whose vast majority are honest, hardworking people producing what was and can again be a top sport and entertainment industry.

Today, Stonestreet Farm owns over 100 broodmares and their foals, and our Stonestreet Stables currently races and trains sixty or so thoroughbred horses. Among them is Curlin, in whom we own an 80% interest. Curlin is an amazing horse. In 2007 he was Horse of the Year, placed in all the Triple Crown races and won the Breeders Cup. He won the Dubai World Cup in March and is ranked as the number one thoroughbred in the world. This past weekend, at Churchill Downs, he raced to first place to the applause of thousands of spectators.

The Committee's concern about the health and welfare of thoroughbred horses, as well as the overall status of the horse racing industry, is very well-founded. As excited as my family is about getting into the thoroughbred racing arena, and about the enormous success of Curlin, our enthusiasm has been tempered by the realization that the sport of thoroughbred breeding and racing faces serious challenges that imperil its future in America.

There are two areas that require immediate action: First, a broken business model and Second, drug use and other safety standards.

A BROKEN BUSINESS MODEL

A Commissioner and a horse owner-based governing body are urgently needed. It is the only way to fix the industry's broken business model. The absence of a legitimate national governing body with federally sanctioned authority to make and enforce consistent rules, regulations and standards is desperately needed. Correspondingly, we need Congress' support to amend the Interstate Horseracing Act (IHA) in order to immediately permit those who are the real investors, the real parties in interest, race horse owners, to organize. For instance, the thoroughbred horse owners provide all the capital for the horses that race, but are unable to organize for fear of anti-trust litigation. An immediate example is the lawsuit filed by Churchill Downs against the Kentucky and Florida horse owners' groups. If permitted to organize through their respective state thoroughbred owners groups, private non-federal entities, and participate in and help make the complex business decisions in today's marketplace, revised integrity and economic models would soon be enacted nationally. To show the economic advantages of such amendments to the IHA I have attached to my testimony an article by Fred Pope entitled, "Change the Law – Engage Racehorse Owners." In this article, Mr. Pope describes in detail the economic plight of the thoroughbred racing industry. In pertinent contrast, The Jockey Club in England is an effective private organization that sets the rules and enforces them. In the United States, our Jockey Club acts as a mere registry of birth and ownership transfer. If horse racing is to regain the immense popularity it historically proved, we, the horse owners, must be permitted to organize and to have a league of our own. While such a league may be either private or public, to succeed it is clear that we will need your help -- the right to organize safely from spurious anti-trust litigation. And as thoroughbred owners we must be permitted to participate at the negotiations between the tracks, the off track betting industry and the TV betting media (advance deposit wagering or ADW's).

In the absence of a healthy new economic model, the most promising source of return on a horse owner's investment increasingly comes from breeding their horses. Current estimates are that horse owners in racing invest over $4.3 billion a year for the chance to compete for approximately $1.1 billion in purses. The result is that most horses' racing careers are geared toward maximizing, at all costs, the horses' early retirement potential for a successful breeding career, and not continuation of racing. In practical terms it means we are racing juvenile horses too soon and racing two year old horses before their bones and joints are fully developed should end. Moreover, racing two and three year olds can result in serious career ending injuries as witnessed on national TV with Barbaro, Eight Belles and others. There is every incentive to compress horses' racing careers, racing them to young and retiring them too soon, in order to get them to stud sooner and avoid the risk of breakdown. I join with others including many prominent and successful trainers who urge that horses be barred from racing until they are much older.

When we decided to race Curlin as a four-year-old, it astounded many in the industry that we would put aside a year's breeding revenue of about 15 million dollars, an amount far greater than we could earn on the track, run the risk of loss or injury from racing and incur the multi-million dollar cost of insuring Curlin for racing. But my family and I wanted to give the industry a boost and share Curlin's speed, brilliance and stamina with the fans. In defining Curlin we personally risk his serious injury and even his death. Since making that decision, we have been overwhelmed with congratulations and support from fans and owners around the world. Curlin continues to earn his legacy as an American champion for the ages, bringing pride and good will both to the industry and our country, both here and abroad. Most importantly, his stamina, power, durability and speed have proven the value of racing stronger and more experienced horses, and (so far) has validated our decision. His ultimate impacts may be to propagate his DNA through his progeny for a sturdier breed and serve as an example for racing older horses.

The fans are important to me and to the industry. Let's look at racing for a moment from their point of view. Purses have dwindled to the point where fewer owners enter their horses in any but the most lucrative venues. With the advent of off-track betting and fewer horses racing and smaller gates and purses, many tracks do not have the financial resources to maintain much less expand their facilities, which results in a less enjoyable and less friendly family and social experience for spectators. Contrast this to Hollywood or Del Mar in the days of Bing Crosby.

We need an open and frank dialogue about the gaming side of our sport. While betting exists in all sports, there is no doubt that it has corroded our industry more than others. If you go to any track in America today, the front and the back of the house are in deteriorating conditions. Why? Because off track betting is getting more money then the tracks themselves which in turn prevents the tracks from becoming state of the art facilities both for the horses and the fans. (See Mr. Pope's article). It is also a disincentive for tracks to put on an entertaining live show for its spectators. Even if they could afford to do it, why should host tracks spend money on live racing or greater purses when the lion's share of gaming revenue is diverted from the tracks and horses who put on the show (and risk their capital) to mostly benefit off track revenue which does little to enhance track or horse revenue. Last year, racehorse owners lost out on about $540 million purse accounts due to off-track wages. That is double the amount of annual prize money on the Professional Golf Association (PGA) tour. I personally admire the PGA and the Association of Tennis Professionals (ATP) as private models which uphold both the integrity and financial viability of their respective sports and their participants. We need a better business model and we need it now. Horse racing may not survive without one.

THE HORSE INDUSTRY'S DRUG AND SAFETY PROBLEMS

a. We Must Ban Improper Use of Drugs

Speaking bluntly, the horse industry has a drug problem. We must replace the existing patchwork of state standards with a uniform national standard that is in accord with international, ZERO-TOLERANCE rules. Congress should start by banning steroids immediately, at any level, for horses in competition. Lasix and Bute should be banned as well -- now -- and should have been banned fifty years ago. These drugs mask pain and, worse, may mask designer drugs including hormones and steroids, all of which should be banned if they affect the track performance or physical appearances of a horse at public auction or private sale. The very fact that there is a debate about steroid use in the Triple Crown, regardless of the merits, is damaging to, and casts a shadow over racing. If one veterinarian (prospering from its sale) convinces one trainer to use a drug other trainers may feel compelled to do likewise in order maintain a "level playing field." But does the horse have a say? It is essential to conform to international standards and ban these drugs now for other than true medicinal use. No horse entering racing should have one iota or trace of artificial steroids, hormones or drugs.

Medication testing must be centralized and independent, possibly using the USADA (United States Anti-Doping Agency) model. Infractions must be adjudicated swiftly and decisively. Punishments must be severe, predictable and uniform. Currently, most violations go to state-run administrative law proceedings which can take years to resolve. It is unbelievable to me that trainers who have been <u>permanently barred</u> in other international racing venues are merely "suspended" for three months in the United States for illegal drug use, such as Cobra venom!

b. We Must Make Racing Safer For Horses

The state of the breed is not what it used to be. To put it in simple terms, the industry focuses excessively on breeding horses for early, brilliant speed at relatively short distances. Today, too many breeders end up producing heavily conformed upper body muscled horses with relatively fragile legs (Barbaro) and feet (Big Brown). The current structure of the graded stakes races in the United States encourages breeding this type of horse, and indeed practically demands it. We can improve the breed by mandating transparency in medical histories, revising the racing calendar and understanding track surfaces' effect on equine health.

Due to the absence of transparency about the frequency and cause of racing related injuries as well as the lack of consistent access to medical records, conscientious breeders do not have sufficient information available to make fully informed breeding decisions. The careers of racing horses are too short to provide much of a racing history on which to base predictions of the performance of their offspring. All contributing to the weakening of the breed.

The larger problem is that obtaining accurate medical records for horses is extremely difficult. Most jurisdictions do not adequately regulate medical record keeping for horses and in some states (including California) medical records belong to the person who paid the veterinarian and are not available to the new buyer/owner. Worse, an uninformed buyer may race a horse with an increased risk of injury or death. Just as Google is moving to establish a confidential, centralized, online database for human medical records, so should there be a repository of accurate horse medical records and ownership. Also, maintenance of accurate medical and ownership records available to the industry and all its prospective owners and breeders of the horses during both sale and racing is essential. Through ownership records the physical and medical history of equine can be verified. True ownership records also would help prevent fraud occurring at auctions and private sales where wrongdoers can falsify bids and documents of a horse's prior sale and medical histories. It is important at sale to provide a potential purchaser with an accurate picture of the horse and to disclose potential health problems. For example, chronic steroid use, in addition to creating health risks to horses, can cause irreparable fertility damage, and is certainly information that is material to a high dollar stallion purchase deal and his fertility performance as a stallion.

Similarly, the racing calendar needs to be revised in the best interest of the horse and coordinated across tracks and states. A national racing commissioner could do this. A league of racing could restore excitement and marketing to this noble sport. One option is have the Triple Crown spread out with the Kentucky Derby on the first Saturday in

May, the Preakness the first Saturday in June, and the Belmont the first Saturday in July. This will promote rivalries, give the horses more rest and recovery time between races and allow for a better approach towards marketing the sport. The Triple Crown is, rightfully, a difficult achievement and I am not advocating that the path be made easier simply because we have not had a Triple Crown winner in decades. However, as the Triple Crown currently stands, these magnificent "too young" horses must overcome the gauntlet-like nature of the grueling schedule rather than the level of competition.

We also need to place the emphasis back on the competition between more mature older horses to reduce juvenile injuries, breakdowns, and catastrophic deaths. Accordingly the Triple Crown races could be limited to four year olds. Today these races effectively mark the end of the viable racing career of high-value successful, but young race horses. Looking at the schedule of graded stakes, there are relatively few races for horses older than three years and the disparity in earning potential between what four year olds and older horses can make at the racetrack and what they may earn in the breeding sheds generally forces most horses into retirement at or before the end of their third year of age. Curlin and other four year and older horses are having trouble finding sufficient races in which to run in the U.S. and must go overseas for races with purses three to ten times higher than current purses in the United States.

Moving the age of the participants up to four would permit horses to develop at a more reasonable pace before being pointed towards the Triple Crown and allow for more seasoning and conditioning. The result would be stronger, healthier and, more skilled equine athletes. This will have the additional effect of lengthening the racing careers – and starts – for almost all thoroughbreds, which then gives a prospective breeder more information about the soundness, ability, strengths and weaknesses in a given horse or bloodline which would tend to help breeder's avoid inbreeding genetic defects thus strengthening the breed.

As it stands now, the racing careers of sire-prospects are so short that it is difficult to reasonably predict the long term genetic characteristics of their prospective progeny. I am told a famous, old time breeder long ago said he would not breed a horse less then four years old and had not run at least fifteen races. In the last thirty years the total number of races a typical thoroughbred runs before retirement has been reduced from over twenty to about six.

Finally, we need to better understand the effect of track surfaces on race horses. While we are in favor of whatever track is safest for horse and rider, we are also wary that by focusing on developing safer track surfaces we may ignore that we now have a less durable breed. We must do both: study race surfaces and improve durability genetics. The thoroughbred has raced on dirt and grass for centuries. Is the current lack of stamina and bone due to historic racing surfaces or more likely to weak inbreeding for speed? We have handsome upper bodies but fragile legs. Both bone and sinue have degraded. We should focus on the cause (breeding weakness) not merely a racing surface. The root problem should be fixed – breed more durable horses.

CONCLUSION

All of all these problems have common root causes: The lack of a responsible horse owners' national organization; the lack of <u>transparenc</u>y in industry practices; the lack of <u>uniform standards;</u> and, most importantly, the lack of <u>accountability</u> and <u>enforceability can all be corrected by an effective horse owners' organization.</u> Through that new founded organization, horse owners must change a poor business model eliminate “drugs and thugs” and restore safety. It is clear to me that most of the industry’s present ills stem from the fact that we are a national, or international, sport, that has no competent central regulating body or federal authority mandating uniformity in the United States. Individual states each have their own regulations that differ, and there are multiple and inept trade groups currently existing that represent limited elements of the industry, mostly the breeders, (the sellers) not the owners,(the buyers). But unlike every other major sport, we have no organization or entity that effectively regulates and markets the sport. While one or more of the present organizations may, with the best of intentions, “study” various issues, few have the authority and none enforce uniform national standards. Some of these issues have been studied, as with the banning of performance altering drugs, for decades without action. As this Committee properly senses, we need less STUDYING and more DOING.

I do not favor more federal regulation or bureaucracy. Where possible, I do think that a carefully crafted amendment to charter a federal horse racing association (representing horse owners) is urgently needed to ensure better treatment for the horses and enhance the revenues for both the tracks and the horse and improve the integrity and safety of the sport. A national organization would also overcome the most common objection to reform at the state level — namely, that reform in any one state will simply drive owners, breeders and business to other more lenient state jurisdictions.

If we are to restore thoroughbred racing to its longstanding position as a cherished national pastime, we must start by protecting the health and dignity of the wonderful athletes that delight and thrill us all. Establishing a meaningful governing body with authority to set and enforce standards in the interest of all stakeholders is the best way to accomplish this most worthy goal. We must also return the sport to our buyers (the owners of the horse) and to our racing fans (our ultimate entertainment consumers). As in any sport the both the participants and the fans are the backbone of the industry. And in the end, if we can accomplish these noble objectives, we will have properly honored the great legacies of true heroes such as Man o'War and Seabiscuit.

Thank you for the honor and the opportunity to testify today.

# # #

Change the Law — Engage Racehorse Owners

Amending the Interstate Horseracing Act will Engage Racehorse Owners

By Fred A. Pope

Revised June 12, 2008

In the Kentucky Derby, the brave filly Eight Belles became classic-placed and then a few minutes later was put down on national television. Every breakdown hurts, however the Kentucky Derby is different. Throughout the world not just racing fans, but families, gather around televisions on the first Saturday in May. It is Thoroughbred racing's opportunity to connect. It is the special day.

In my opinion, racing dodged a bullet on Derby day because had the filly gone down a few seconds earlier, under urging at full speed, we would have faced a problem on a different level. Horrific images of such a spill would have been burned into the memories of millions of people watching live and then replayed again and again. The risk is there every time the race is run.

In 1987, Alysheba's near fall in the stretch of the Derby raised the question: "How can we make Thoroughbred racing strong enough to withstand such a disastrous event?"

Whether working on a political campaign or a brand of peanut butter, that's how marketing people think because we know bad things happen and you either build an image strong enough to handle it, or risk having your product disappear.

The safety issue is being addressed; but, it isn't the reason our sport is in crisis and fixing it will not provide the answer to how can we make racing strong enough to insure its future.

<u>The Public Gets It</u>

In the blame game, the industry knows the Derby breakdown is complicated. But, the public takes a more direct view. The public knows racehorse owners are to blame. It is the racehorse owners' game and they are responsible for their horses. That's the way the world works. The public gets it.

The problem is racehorse owners don't get it. Racehorse owners, against all reason, have given control of their sport over to the tracks and seem to take no responsibility for what happens to it. You can own a racehorse and your only responsibility is to pay the bills.

We have a long list of national organizations, but nowhere among them is a national Racehorse Owners Association (ROA). Several national organizations say they speak for racehorse owners, however those organizations are actually controlled by breeders, tracks or trainers. It seems everyone in our industry wants to speak for racehorse owners, except racehorse owners.

While there many stakeholders in the Thoroughbred industry, the racing segment has only two stakeholders: racehorse owners and track owners.

Sports' marketing is successful when the players, or owners of the talent, acquire the rights of the facilities where they play, then package and present the sport to the public.

Every sport operates that way, except ours. In Thoroughbred racing, the owners of the talent (racehorse owners) give away their rights to the facility (racetrack) where they race.

It is the structural flaw that dooms the sport. When people complain there is no one in charge, how could there be someone in charge? Think about it.

At one time, the golf courses controlled professional golf tournaments. The golf courses jerked the players around the country for low purses and low attendance. Then the professional golfers engaged, pooled their rights and adopted the major league model for the PGA Tour. The PGA Tour then acquired the image rights of the golf courses and today it packages and presents a great schedule for high purses and high attendance. If, God forbid, a golf shot killed a person in one of their events, the PGA Tour will be strong enough to survive it.

As many of you know, I am a proponent of racehorse owners forming a major league like the PGA Tour. Yes, a major league would do the things everyone wants for the sport of Thoroughbred racing. It would have someone in charge. It would have all rights pooled into the proven business model. It would grow the sport and make it strong. However, until that happens, there is an urgent need to engage racehorse owners right now.

How Can We Engage Racehorse Owners?

Racehorse owners' purse money is a good place to start. This year about $540 million is leaking out of purse accounts that are funded by off-track wagers. To put that amount of money into perspective, $540 million is twice the money in all stakes races in North America. It is also double the annual prize money on the PGA Tour. A change in the off-track business model is needed now to stop this money from leaking out and racehorse owners must engage to change it.

The fastest way to get racehorse owners to engage in the business is to change one word in the Interstate Horseracing Act (IHA) into two words. Currently under the law, simulcast approval requires "horsemen", which are defined in the law as owners and trainers. Changing from the term "horsemen" to "racehorse owners" with no definition required will immediately engage racehorse owners in their own sport.

When interstate simulcasting started in 1978, the approval of "horsemen" at the host track and at the receiving track was a pretty basic decision. Today, off-track distribution is a sophisticated business venturing far beyond the borders of tracks. It is doubtful anyone is going to say trainers are better than racehorse owners to make the complex business decisions needed today.

A simple amendment to the IHA will engage racehorse owners, some might say bring them kicking and screaming, into the business of Thoroughbred racing. It is the racehorse owners' game and they have both the right and the responsibility for simulcast approval.

Simulcasting Changed The Business Model Of Racing

The business model for pari-mutuel wagering started with a deal between the two stakeholders: the tracks and the racehorse owners. With each stakeholder having a significant investment in putting on the show, they agreed to a 50-50 split of the after tax takeout from wagers. The 50-50 split of on-track wagers netted and equal 8% into the purse account and 8% to the host track putting on the show.

The business model for on-track wagers has stayed the same; however, simulcasting changed the business model for off-track wagers. Simulcasting has grown from nothing to where about 90% of all racing handle is made off-track today.

Each year as the percentage of handle from off-track wagering increases, the percentage of off-track wagers going into purses has decreased from 8% to about 4% today. Those 4 percentage points matter.

Why is this $540 million (4% of $13.5 billion) in off-track wagering leaking out of Thoroughbred purses? The culprit is an insane business scheme that the small tracks and resident horsemen devised, giving the lion's share of the money (18%) to "where the bet is made", instead of "where the show is produced" (3%).

A direct analogy to this off-track model would be if a convenience store took the lion's share of a lottery ticket sale because the store punched in the numbers and sold the ticket.

In the real world, the Lottery organization pays the convenience stores only 5% for punching in the numbers and taking the Lottery "bet". (YouBet.com has said they can make a profit with just 5% of the off-track wager.) If racehorse owners change to a business model where the bet takers receive 5% for taking off-track wagers, there will be little or no leakage of racehorse owners' purse money.

Before simulcasting, each track lived and died based upon its ability to put on a good show and attract a large crowd of bettors. The transient racehorse owners were drawn to the tracks with rich purses derived from the 50-50 split from wagers. The bigger markets delivered high attendance and with the high purses they offered, the largest number of people got to see the best horses race. It is a business model that makes sense and it worked well for the sport.

The introduction of simulcasting in 1978 could have taken Thoroughbred racing to the next level by dramatically increasing distribution of our best racing products. Purses at the tracks putting on the show in our biggest markets would have soared to heights unimaginable today. That's the way the world works and it could have worked that way for Thoroughbred racing.

When simulcasting started, "where the bet was made" was either at a host track or a receiving track. The receiving tracks and horsemen seemed to have the philosophy "we own our customers and if they are going to bet on races at other tracks, we are going to get the lion's share from their bets". While that was true in the beginning, the Internet and mobile technology has shown us no one owns the consumer today. Consumers today are free and mobile.

There is a need to pay taxes to the state where the bet is made and just like purchases made on the Internet, we can continue paying the state their tax on the bet. All the while, we can be changing to an off-track business model that gives the lion's share "where the show is produced".

"Where The Bet Is Made" Is Killing The Sport

The tracks and horsemen are so addicted to the large margin they make on imported races (about 18%, versus the 3% going to the host track) that it has blinded them to the amount leaking out of the sport through other bet takers. The only way to bring change is for racehorse owners to engage in the business and establish a new off-track model that will allow the host track to make a profit and insure a fair amount goes into purses.

It isn't just the money, it is the most basic question for racehorse owners: Are we in the business of putting on a racing show, or are we in the business of making money on someone else's show? Trying to have it both ways isn't working.

Racehorse owners, by not engaging, have put the tracks into the position of planning for a future where there is no incentive to grow live racing and the sport. The current incentive is for the tracks to convert into facilities where the live racing show is subservient to betting on other racetracks' races and other gambling, i.e. the new Gulfstream Park.

Today, one of the tracks benefiting the most from "where the bet is made" is Keeneland, with only 30 days of live racing, but 11 months of taking the lion's share from imported races. This allows their limited live race days to benefit with large purses, but as much as we like Keeneland racing. Is that what we want? Do we want our national sport to be downsized to a few weeks of festival racing?

Keeneland is not to blame for the off-track business model and they have tried many times to raise the off-track price on their quality races. But, as we dig deeper into this mess, it is clear that the current model rewards the tracks with the least live racing.

I favor a Major League structure within the sport of Thoroughbred racing. However, we also need a strong program of minor league racing, a feeder-system if you will. We need to continue having 35,000 foals born each year to give us the best 6,000 to race at the highest level.

Legal gambling makes lower levels of Thoroughbred racing economically viable, but the lower levels are not viable as a sport. Every sport has found they need a major league structure to package and present the highest level of their sport as the beacon that connects with the public.

<u>Breeders Should Urge Racehorse Owners To Engage</u>

Although commercial breeders are not one of the two stakeholders in the racing segment, they have great interest in the sport. Breeders should be very concerned about the $540 million dollars leaking out of purses, because racehorse owners wanting to purchase new racing prospects could reinvest a good percentage of that money. Today, none of the money leaking out of purses is being reinvested in horses.

With the incentives for the tracks changing away from live racing, inevitably tracks will discontinue live racing. They can make more money taking bets on other tracks races, so the live sport will become more and more regional.

We still have great facilities in our major markets and it is vitally important to restore a business model that will allow them to not just survive, but to prosper.

At this year's Belmont Stakes, the once-a-year crowd of 94,000 people overwhelmed the water system. In America's biggest market, a track built to handle large attendance has been brought to its knees by the current off-track model. Restoring a business model that favors "where the show is produced" will restore our major tracks and the sport.

Giving the majority to "where the bet is made" is a distribution model gone crazy and it has done its damage in just twenty-five years. It has allowed gimmicks such as "source market fees", to leak purse money when there is no track in the state where the bet is made. As tracks start closing, more and more of the erroneous "source market fees" will be leaked from purses. "Source market fees" must be stopped and the term "source market" should once again come to mean the source of the live racing show.

If a state, such as New Jersey, has passed legislation that prohibits paying a host track in another state more than 3%, then the racehorse owners should not approve their races being sent into that state until such laws are changed.

Gross handle means nothing to racehorse owners and the sport if those wagers are not contributing enough to put on the live racing show. By instituting a fair off-track business model, racing could see the annual gross handle drop from $15 Billion to $12 Billion, and still have more money going to support purses and host tracks. Isn't that what is important?

How Did This Happen?

Just after simulcasting started, a war developed between the big tracks that were "net exporters" of races and the small tracks that were "net importers". The net importers were those tracks making more net money from their customers wagers on races "imported" from other tracks, than they were making from the bets made off-track on their exported live races.

The big "net exporters" were tracks in New York and California. Those were the tracks with high purses and high attendance benefiting from large population centers.

Soon the insane business model giving the lion's share to "where the bet was made" brought the California and New York tracks to their knees. Purses dropped, horses left, and attendance fell off at our major tracks. Suddenly, the world was upside down and with racehorse owners on the sidelines, there was no one to correct the problem.

Racing's business model was changing and the small tracks and the new gambling "racinos" started pulling horses away from our major markets to remote rural facilities, such as Iowa and West Virginia. The little guys were winning and our most successful host tracks were losing. The problem is when the best tracks in the major markets are losing; the national sport of Thoroughbred racing is losing. No one seemed to care.

In 1992, I wrote an article called “Whose Game Is It?” and for a time racehorse owners started to engage. Later that year, Ed Friendly resigned from the California HBPA Board and with Mace Segal and other friends started Thoroughbred Owners of California (TOC). Soon they successfully changed California law to mandate TOC as the rightful organization to represent racehorse owners for simulcast approval. Funding was provided for the HBPA to continue their role with backstretch issues.

The following year, Don Rudder and friends started Thoroughbred Owners of Florida (TOF) to do the same thing in that state. Just when it looked like we were going to engage racehorse owners, a strange thing happened. Commercial breeders in Florida and Kentucky convinced the leading racehorse owners who had signed up to start the TOF, to quit and as quick as it started, that was the end of the racehorse owners’ movement. No other state racehorse owners’ organizations were started.

The TOC represents every racehorse owner who starts a horse in California and they have done a fine job, however the TOC is powerless to change the current business model alone. The Interstate Horseracing Act (IHA) empowers and requires approval from the horsemen at receiving tracks in other states and they looked at California as the enemy.

By amending the IHA to rightfully empower racehorse owners across the country by law, we can avoid the state-by-state turf battles between breeders, trainers and racehorse owners. The structure in California is a good model. Each group — racehorse owners, tracks, trainers, jockeys and breeders — have a distinct organization. In other words, when they sit down to do business, they are not wearing more than one hat in California.

Today, with the current off-track business model, it has evolved to where there are no more "net exporting" tracks. Think about what that means to our sport. With the host track receiving only half (1 ½ %) of the 3% from off-track wagers, incentives to put on a good live show are gone. The host tracks cannot even afford to market their own races, so declining attendance at live racing and declining interest in the sport should not be a surprise.

The consumer research I have seen shows that the majority of the generation born since simulcasting started in 1978 does not have a favorable opinion of Thoroughbred racing.

We are losing the majority of a generation because we do not have a structure to protect and grow the sport.

Is it any wonder the tracks and horsemen are at each other's throats? They are literally picking at the bones and trying to establish new businesses to go after the $540 million leaking out of racing because of the insane model of the lion's share going to "where the bet is made".

Currently the horsemen's groups are fighting with account wagering companies to start putting more into purses. But, the amount they are asking from account wagers ($30 to $40 million) pales in comparison to the $540 million leaking from the system because of the basic problem of "where the bet is made". Unfortunately, the horsemen have no appetite to change from the business model that favors "where the bet is made". The original simulcast business model was a form of welfare for the small tracks that got out of hand.

How can we stop leaking $540 million this year and assure a fair amount of all wagers on a host track's races go into its purse account? We simply change the off-track business model from a buyers' market over to a sellers' market, where the lion's share will go to the host track and racehorse owners putting on the show.

By engaging racehorse owners, we will start to have businessmen and businesswomen who understand the business model of the past twenty-five years is wrong. The host track and racehorse owners must control their product and its distribution. That is one of the most basic principals of business.

A Better Business Model

If racehorse owners develop a two-tier pricing model at the host track, we can continue a favored distribution system through other racetracks, while closing the leakage that occurs with other bet takers, such as account wagering companies and outlets with no live racing. Every phase of the distribution system must start contributing a fair amount to producing the show.

The first tier could be changing to an off-track model similar to the one the Breeders' Cup uses, where half of the takeout goes to the host track and the other half to the receiving track. That should keep about 8% in purse accounts when tracks trade signals.

The second tier-pricing model for other bet takers should start with a license fee of close to 8% going into purses at the host track. Exotic wagers have increased the total takeout to about 21% today, thus with a 5% commission paid to the off-track bet takers, the host track would receive about 8% for its role in putting on the show.

So, with about 8% going into purses, regardless of whether the bets were made on-track or off-track, each track will be on a level playing field for the first time. That's the model we should have had in place from the beginning. It is a model we can have in place soon.

When this change occurs, we may lose some distribution as off-track buyers adjust. If some current outlets are lost along the way, technology will allow bettors to continue wagering with the host tracks.

Why do you need 8% going to purses? Say you project the off-track handle on one day at the host track will be $5 million. That would deliver $400,000 to purses. Combining that with projected on-track handle of say $500,000 at 8% ($40,000), the purse account would get $440,000, or enough for 9 races averaging $40,000 each. Not bad, but less than it costs for racehorse owners to keep the horses in the game.

Under the current model, the purse account would only get 1 1/2 % of that $5 million in off-track handle on its races, or $75,000, plus the on-track contribution of $40,000, for a total of $115,000. Then the purse account and host track would be dependent on whatever came in from bets on other tracks' races. The track and racehorse owners do not have control over their own destiny under the current off-track model.

The Incentive To Produce A Good Show

What happens if the host track starts producing a good show? In a model where the host track purse account would get a fair 8% from the off-track handle on its races, if the host track can put on and market a good show and the off-track handle goes up to $10 million, then the purse account would get $800,000. Combining that $800,000 with $40,000 from on-track, would give you $840,000, or 9 races averaging $93,333. That's the incentive needed for putting on a good show. In addition, the host track and purse account would get 3 to 4% of wagers made on imported races.

Also, under the current off-track pricing model there is no incentive for the host track to market its races. Currently, the host track has more incentive to market other tracks' races to their simulcast customers, than to market their own races. Not surprisingly, there are a lot of people scrambling to come up with a new business to go after the $540 million being leaked out of purses.

Who will lose when the leaking is stopped? The only people who will lose when the offtrack business model is changed are those not involved in live racing. If any entity involved in live racing loses under the change, then they were doing something they should not have been doing. TrackNet, a joint venture of Churchill Downs and Magna Entertainment, wants the account wagering companies (ADW's) it owns to pay 7% to host tracks (3 ½ % to purses), then a wild mix of "source market fees" and 2% to 3% of handle to the television company they own. For areas of the country without a track nearby, all the rest of the money goes to TrackNet. That means the purse account at the host track would only get 3 ½ %, but their "partner" host track could get upwards of 15%. That doesn't seem to fit the agreed upon split of 50-50 does it?

Churchill Downs and Magna Entertainment own the television company, HRTV, jointly. They want it funded by a percentage of handle, 2 to 3%. Under such a model, HRTV would either be underpaid or overpaid. Television production is a fixed expense and should be paid a set amount. It would be good for the host tracks to sit down with their partners, the racehorse owners, and agree on the value of television production and how it can be funded properly to grow the business and the sport. It is not good business to fund television production with a percentage of handle.

If racehorse owners will engage now in the business side of running the sport, we can then hope it will spill over into other issues like safety of the participants and a host of other issues. With a national racehorse owners' organization, they can decide how best to protect and grow the sport at every level. It's their game.

Over the years, I have commissioned a great deal of consumer research on Thoroughbred racing. I can assure everyone there is a clear path for Thoroughbred racing to restore itself as a successful, national sport. But, it cannot be done without putting in place a business model that provides an incentive to put on the live racing show. The process starts when racehorse owners engage, fix this obvious problem and take responsibility for their game.

The nature of an action sport like Thoroughbred racing means bad things are going to happen from time to time. We need to make our sport strong enough to overcome problems.

I like the word “engage” as it applies to racehorse owners. It brings to mind the movie Top Gun. The crisis in the movie came when the lead character, Maverick, would not engage to protect his partner and his lack of commitment was putting his carrier ship in danger. When Maverick overcame his fears, took responsibility and engaged, his partner was saved, the ship was saved and the story had a happy ending.

We need some racehorse owners with a little maverick in them to engage now and save the sport of Thoroughbred racing.

Fp